

STATE OF SOUTH CAROLINA  
BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 2018-202-E

In Re:	)	
	)	
Petition of Duke Energy Carolinas, LLC	)	COMMENTS OF THE
and Duke Energy Progress, LLC for	)	INTERSTATE RENEWABLE
Approval of CPRE Queue Number	)	ENERGY COUNCIL, INC.
Proposal, Limited Waiver of Generator	)	
Interconnection Procedures, and Request	)	
for Expedited Review	)	

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**I. Introduction**

On June 19, 2018, Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, “Duke”) filed a petition to waive certain sections of the South Carolina Generation Interconnection Procedures in order to allow projects in South Carolina to participate in North Carolina’s Competitive Procurement of Renewable Energy Program (“CPRE” or “CPRE Program”). On July 11, 2018, the Commission denied Duke’s request for expedited review and allowed time for discovery. Following discovery, on September 21, 2018, the Office of Regulatory Staff (“ORS”) filed its comments on Duke’s Petition, and on September 27, 2018, Ecoplexus, Inc. and the South Carolina Solar Business Alliance, Inc. (“SCSBA”) filed their comments. The Commission granted the Interstate Renewable Energy Council, Inc.’s (“IREC”) Petition to Intervene on October 3, 2018. On October 10, 2018, First Solar filed comments, and then on October 12, 2018, Duke filed reply comments. This filing represents IREC’s first substantive comments in this docket.

IREC is a non-partisan, non-profit organization working nationally to increase consumer access to sustainable energy and energy efficiency through independent fact-based policy leadership, quality workforce development, and consumer empowerment. In service of this mission, IREC works to increase the adoption of policies and regulatory reforms that expand access to and streamline grid integration of distributed energy resources to optimize their widespread benefits. The scope of IREC's work includes updating interconnection processes to facilitate deployment of distributed energy resources under high deployment scenarios. In addition, IREC has recently been or is currently involved in interconnection proceedings in Illinois, Ohio, North Carolina, Massachusetts, California, Iowa, Minnesota, Maryland, Nevada, and New York. IREC also participated in the proceeding at Federal Energy Regulatory Commission ("FERC") to revise the Small Generator Interconnection Procedures ("SGIP"), and is deeply familiar with the SGIP and the rationale for its revisions. IREC participated in the formation of cluster and group study processes in California, Massachusetts, and at FERC. In addition, IREC has published Model Interconnection Procedures, which capture best practices with respect to interconnection.<sup>1</sup>

In pursuit of its mission, IREC was an active party in the recent update of South Carolina's interconnection procedures (Docket No. 2015-362-E), portions of which Duke now seeks to waive. IREC is also party in the interconnection proceeding before the North Carolina Utilities Commission where implementation of the CPRE program has been at

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<sup>1</sup> Available at [www.irecusa.org/wp-content/uploads/2013-IREC-Interconnection-Model-Procedures.pdf](http://www.irecusa.org/wp-content/uploads/2013-IREC-Interconnection-Model-Procedures.pdf). For further discussion of the latest developments in interconnection, see *Priority Considerations for Interconnection Standards*, Interstate Renewable Energy Council (Aug. 2017), available at <https://irecusa.org/regulatory/priority-considerations.pdf>.

issue. IREC filed comments responding to Duke's proposals in that forum and actively participates more broadly in North Carolina's efforts to reform its interconnection rules.

In this docket, IREC uniquely represents the interests of South Carolina consumers who seek access to affordable and sustainable clean energy. It is important to recognize that while the interests of the solar development community are generally aligned with the interests of consumers seeking access to affordable clean energy, the industry itself is not speaking on behalf of consumers. IREC does not represent the solar or renewable energy development community, and instead speaks for consumers' interest in creating a fair and level playing field among all entities pursuing new renewable energy projects. In addition to bringing this diverse perspective, drawing from its participation in numerous state-level proceedings, IREC brings national expertise in interconnection best practices. IREC is interested in supporting a fair and efficient interconnection process in South Carolina that effectively implements the state's renewable energy policy, Act 236, and federal policies, including the Public Utility Regulatory Policies Act ("PURPA").<sup>2</sup>

In these initial comments, IREC urges the Commission to reject portions of Duke's proposal as potentially detrimental to South Carolina ratepayers, and to modify aspects of the proposal in order to prevent discrimination against, and unfair treatment of, projects already in the queue that do not participate in the CPRE program.

## **II. Duke Seeks Authorization for the Right to Seek Cost Recovery, Not Simply a Waiver of Generation Interconnection Rules.**

While Duke has framed its motion as a request to merely waive limited sections of the interconnection procedures, in actuality Duke is seeking much more from the Commission and South Carolina ratepayers. In addition to the specific provisions of the

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<sup>2</sup> 16 U.S.C. § 2601, *et seq.*

interconnection procedures related to the study and queue process outlined in Duke's motion, in its reply comments, Duke asks for permission to bill South Carolina ratepayers for investments required by North Carolina law, and for the Commission to find that an undefined cost allocation approach is in the public interest.<sup>3</sup> The investments Duke references as "appropriately recoverable from all South Carolina (and North Carolina) customers" include both the "bid price and upgrade costs," yet there is scant evidence in the record that South Carolina ratepayers would benefit from paying these costs, or that this allocation is in the public interest.<sup>4</sup>

Under this Commission's rules, interconnection customers are responsible for paying upgrade costs associated with their projects.<sup>5</sup> Duke seeks to shift the responsibility for these investments to South Carolina ratepayers, with the justification that the program is required by North Carolina law. Yet this program was not approved by the South Carolina Legislature, nor has the Commission in this state been presented with any information about the procurement program itself. Rather, Duke has sought only to waive portions of the interconnection rules. IREC is not unilaterally opposed to the idea of recovering the costs of system upgrades from ratepayers where it has been shown that this will lower the overall costs of renewable energy procurement for those ratepayers. However, the record in this docket does not show a material benefit to South Carolina ratepayers for upgrade costs. In addition, it appears that this shifting of costs from project developers to ratepayers may

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<sup>3</sup> Pub. Serv. Comm. of S.C.; Dkt. 2018-202-E; Reply Comments of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC ("Duke Reply Comments"), pp. 13-17 (Oct. 12, 2018).

<sup>4</sup> Duke Reply Comments, p. 16.

<sup>5</sup> South Carolina Generator Interconnection Procedures, Forms, and Agreements, as adopted by Order No. 2016-191, Attachment 10, § 5.2.

also afford the utility an opportunity to earn a rate of return on these upgrades, which represents a significant policy shift.

Similarly, it is even more inappropriate for South Carolina ratepayers to pay for the cost of energy supplied through the CPRE program, which was not authorized or approved by the this state's Legislature or supported by a prudence determination from this Commission. In its reply comments, Duke appears to claim that South Carolina ratepayers will be allocated energy costs from North Carolina's CPRE program.<sup>6</sup> Bid prices for the CPRE projects are designed to compensate the project for its energy output, and Duke states that these costs are "are appropriately recoverable from all South Carolina (and North Carolina) customers."<sup>7</sup> This implies that South Carolina ratepayers will be asked to shoulder the cost of energy supplied under the CPRE program. The CPRE program was designed by North Carolina's legislature as a resource acquisition program to meet *North Carolina's* renewable energy needs. As far as we know, the North Carolina Legislature did not address South Carolina's ratepayer's energy needs in the CPRE program, and the South Carolina Legislature did not adopt it as a procurement mechanism in this state. Therefore, absent a prudence determination from this Commission regarding the acquisition of these resources, South Carolina ratepayers should not be required to pay the energy costs of CPRE projects being procured *for the North Carolina market*.

This docket was not initiated to contemplate the prudence of a resource acquisition decision. As this Commission knows, decisions regarding the prudence of resource acquisitions necessitate a detailed record demonstrating clear benefits to South Carolina's

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<sup>6</sup> Duke Reply Comments, p. 16.

<sup>7</sup> *Id.*

ratepayers. Indeed this is a deeply controversial topic in the state at this time, and thus, IREC is particularly concerned about the interests of South Carolina consumers who may not be on notice about the potential cost implications of this program.

To be clear, IREC does not disagree that a well-designed and administered competitive solicitation could potentially lower the cost of procuring renewable energy for a state's consumers. However, in this instance, nearly a year after the North Carolina Legislature passed House Bill 589 on July 27, 2017, and five months after it first presented the CPRE Group Study process to the North Carolina Commission on January 29, 2018, Duke suddenly decided to petition the South Carolina Commission for expedited review of a request for waiver of limited provisions in the South Carolina interconnection procedures. Then, months later, at the last minute, Duke revises that request to include potential recovery from the South Carolina ratepayers, asking the Commission to rule on that request in less than two weeks' time.

The South Carolina Commission should not rush to judgment on this matter and should carefully consider the appropriateness of Duke's request and its impact on South Carolina ratepayers. The record in this docket is not sufficiently developed to support the notion that procuring resources and system upgrades through a program designed by the North Carolina Legislature is prudent, in the public interest, or reduces overall procurement costs for South Carolina customers. Rather, the Commission should either *reject outright or decline to make any public interest finding or rule on any question regarding whether these costs may be recovered from South Carolina's ratepayers until an appropriate record can be developed.*

**III. Group Study Processes Can Facilitate a Faster and More Efficient Interconnection Process, but Applying them to Only a Select Group of Projects Can Result in Discriminatory Treatment.**

**A. Well-Designed Group Study Processes Can Benefit The Queue When Available to All Projects.**

IREC has been an active participant in the key state interconnection dockets in the United States where market activity and other conditions have resulted in a backlogged interconnection queue and where Commissions have thus considered adopting interconnection group or cluster studies. In particular, IREC has participated in discussions regarding the formation of cluster studies in California that were adopted for both FERC- and state-jurisdictional projects interconnected to, or interdependent with, the transmission system.<sup>8</sup> IREC also participated in the formation of the group study processes for distribution-level interconnection projects in both California<sup>9</sup> and Massachusetts.<sup>10</sup> We have similarly participated in discussions about the potential formation of group studies in North Carolina, New York, and Minnesota, where the stakeholders declined to move forward with the creation of such processes.

<sup>8</sup> See, e.g. FERC Dkt. ER12-1855-000, CAISO Transmission Planning and Generator Interconnection Procedures.

<sup>9</sup> California Public Utilities Commission, D. 14-04-003, Apr. 16, 2014 (adopting the distribution group study process).

<sup>10</sup> See, Mass. Department of Public Utilities Order 11-75-A (January 23, 2012). In Massachusetts there is currently an active docket reviewing the existing Distribution Group Study process, the pleadings in this docket demonstrate the complexities of adopting effective group studies. See Mass. Dept. of Pub. Utils. Dkt. 17-164, Petition of Fitchburg Gas and Electric Light Company d/b/a Unitil, Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, and NSTAR Electric Company and Western Massachusetts Electric Company d/b/a Eversource Energy for Approval of a Proposed Revision of Section 3.4.1 of the Standards of Interconnection of Distributed Generation Tariff.

Through these dockets, IREC has developed an appreciation of both the benefits and drawbacks of group and cluster studies. IREC does support the adoption of group study processes when the need has been appropriately identified and where the procedures governing those studies are well thought-out and clearly defined to ensure a functioning process that protects the rights of interconnection applicants and does not discriminate between projects or otherwise offer special treatment to some projects but not others. Indeed, IREC proposed consideration of group studies in North Carolina in the interconnection docket in 2014. Based on our experience working in states that have developed group and cluster studies, IREC recommends, at a minimum, that any group study process should define (1) who participates in a group study and how they apply for the process, (2) timelines for each step of the process, (3) how groups would be formed and how the studies will be conducted to evaluate the impacts associated with interconnecting the group, (4) what happens if projects drop out of the study group (i.e., are restudies required and if so, when and how are they conducted?), and (5) how costs will be allocated between projects in a group.

In this case, IREC has a number of concerns about the group study process that Duke has proposed for projects bidding into the CPRE program in both North and South Carolina. Our primary concern, which is explained more below, is simply that the group study process is being offered only to a limited number of projects, and the effect is to both give preferential treatment to the participating CPRE projects and to potentially harm the rights of other projects that have been patiently waiting for their interconnection studies, sometimes for years. IREC raised these concerns in our comments in North Carolina, and Duke and the North Carolina Utilities Commission were able to address some, but not all,

of IREC's concerns.<sup>11</sup> We remain concerned that the process has been hastily developed and thus is likely to result in substantial disputes. Here, however, we recognize that the North Carolina Utilities Commission has approved a group study process for the first tranche of CPRE projects,<sup>12</sup> and while some concerns remain, IREC is focusing here on how to minimize detrimental impacts to projects in South Carolina that are *not* bidding into the CPRE program.

**B. The Current Proposal Risks Unduly Impacting South Carolina Projects that Do Not Bid Into the CPRE Program.**

IREC is concerned that Duke's proposal could result in undue negative impacts to South Carolina projects that do not bid into the CPRE Program. The Commission is charged under federal law with ensuring that Qualifying Facilities ("QFs") are interconnected in a manner that is not unduly discriminatory, or that erects barriers to interconnection of QFs.<sup>13</sup> If Duke's group study proposal results in existing projects languishing unnecessarily in the queue or their studies being neglected, while the special group study projects are afforded swifter review, there is a real risk that the program will violate FERC precedent and be found to be discriminatory and in violation of PURPA. For example, FERC has found queue reforms to be discriminatory where they could "result in

<sup>11</sup> For additional information on IREC's specific concerns about the group study process details see: N.C. Util. Comm., Dkt. E-100, Sub 101, Initial Comments on Proposed Interim Modifications of the Interstate Renewable Energy Council, Inc. (Aug. 24, 2018); N.C. Util. Comm., Dkt. E-100, Sub 101, Reply Comments on Proposed Interim Modifications of the Interstate Renewable Energy Council, Inc. (Sept. 19, 2018).

<sup>12</sup> N.C. Util. Comm., Dkt. E-100, Sub 101, Order Approving Interim Modifications to North Carolina Interconnection Procedures for Tranche 1 Of CPRE RFP (Oct. 5, 2018).

<sup>13</sup> See, e.g., *Am. Paper Inst. v. Am. Elec. Power Serv. Corp.*, 461 U.S. 402, 419-20 (1983); see also 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.303(a).

undue discrimination between types of developers”<sup>14</sup> or where they would allow projects to jump to the front of the queue when they are not “clearly more ready [to complete interconnection] than other customers” in the queue and could cause delayed processing for other projects.<sup>15</sup>

**1. A Large Number of Projects Remain in Duke’s Transmission Queue, Awaiting Study.**

Here, notably, Duke maintains a combined transmission queue for both state- and FERC-jurisdictional projects, and many of these projects are interdependent.<sup>16</sup> There are a huge number of projects that have been waiting in this queue for an extended period of time to receive their studies—since 2016 in many cases—and they have not yet gone through the study process.

IREC reviewed the currently posted transmission<sup>17</sup> interconnection queues for DEC (dated 10-15-18) and DEP (dated 9-26-18). In DEC’s queue<sup>18</sup> there are approximately 80 projects with queue dates prior to October 9, 2018 (the date the Group Study queue

<sup>14</sup> *MISO*, 124 FERC ¶ 61,183, 61,890 (Aug. 25, 2008); *see also MISO*, 154 FERC ¶ 61,247, 62,431 (Mar. 29, 2016) (procedures that could bias the queue in favor of utility-owned generators).

<sup>15</sup> *Public Service Co.*, 140 FERC ¶ 61,230, 62,166 (Sep. 20, 2012).

<sup>16</sup> Because Duke maintains a combined transmission queue for both state- and FERC-jurisdictional projects, it is important for the Commission to ensure that any procedure it approves does not impact federal projects, or risk running afoul of federal law requiring that utilities may not unduly discriminate between projects seeking to interconnect that are subject to FERC’s jurisdiction. Impacts to these projects could result in litigation of disputes before FERC, or direct challenges to this proposed program.

<sup>17</sup> Note that IREC is focusing on the transmission interconnection queue, there are many more distribution level projects. Duke has indicated that it believes it is unlikely that distribution level projects will compete in the CPRE we are focusing here on the transmission interconnected projects.

<sup>18</sup> Available at: <https://www.duke-energy.com/media/documents/for-your-business/dec-transmission-queue.xls?la=en>

position would be created) that are in some stage of the study process.<sup>19</sup> These projects constitute over 7.7 gigawatts (“GW”) of capacity. It is unclear exactly how many of these projects may choose to bid into in the CPRE program, but at least 4.2 GW are for non-solar projects, and thus would not be qualified to participate in CPRE, in addition about 5.5 GW are FERC jurisdictional projects. While some of these projects are not solar, they may all be interdependent from an electrical study standpoint on the system. Thus, it is clear that there are many, many projects, constituting hundreds of megawatts that will be queued ahead of the group study in DEC’s territory in South Carolina alone. The version of DEP’s transmission queue that IREC was able to locate contains considerably less information about the projects and their status, and thus, it is difficult to drill down into as much detail with respect to what sorts of projects are still awaiting study, what types they are, etc.<sup>20</sup> However, it does appear that once again there are many megawatts, if not gigawatts, of projects ahead in the queue that are still awaiting studies.

**2. The Commission Should Require Duke to Explain How It Will Be Able to Meet Its Obligations Through “Concurrent” Review of Non-CPRE Projects.**

While we do not believe that it is Duke’s intent to necessarily disadvantage non-CPRE projects, the impacts of Duke’s proposal on the non-CPRE projects must be taken into account. In its reply comments, Duke says that it will commit to continue to study the non-CPRE projects “concurrently” with the CPRE group study projects.<sup>21</sup> But it is not clear

<sup>19</sup> To reach this number, we excluded all projects under construction and awaiting commercial operation.

<sup>20</sup> DEP’s queue can be accessed by following the directions on this page: <https://www.duke-energy.com/home/products/renewable-energy/generate-your-own/interconnection-queue>

<sup>21</sup> Duke Reply Comments, p. 12.

how it is possible to study all of the existing projects in the queue and the CPRE projects in a timely manner that would comport with the requirements of the CPRE program.

A review of Duke's most recently filed interconnection reports reveals that the study process typically takes many months to complete. For example, it appears that the average time for the System Impact Study interval is 176 business days (or more than eight months). There is also a vast backlog of projects. No time is provided for the Facilities Study and other steps, but a review of the queue alone demonstrates that it is taking many months longer to complete this process than is provided for in the interconnection procedures. In contrast, Duke explains that the CPRE queue position will be studied, and winning CPRE bids notified, in under four months.<sup>22</sup>

With thousands of megawatts queued ahead of the CPRE queue position, how will Duke manage to study them ahead of the CPRE position, when the CPRE projects are to be studied in under four months but other projects take more than twice as much time to get through just the System Impact Study? IREC is not opposed to the idea of concurrent studies to move everyone through the queue, but it simply seems impossible that Duke's proposal will actually be able to work.

Beyond this, the risk that this proposal will disadvantage already-queued projects that do not elect to bid into the CPRE Program is high. This is a problem, because those already-queued projects are entitled to have their studies completed and their Interconnection Agreements in hand before the CPRE group study projects are studied and given Interconnection Agreements.

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<sup>22</sup> Duke Reply Comments, p. 3.

### 3. **The High Volume of Queued-Ahead Projects Risks Uncertainty for Study of the CPRE Projects.**

Another significant concern IREC has, in addition to these concerns about potential discriminatory impacts, is that it is unclear as a practical matter how Duke will be able to accurately assess the potential impacts of the group with many megawatts, or even gigawatts, of projects queued-ahead of the CPRE group study queue position, without completed studies or signed Interconnection Agreements. Without completing System Impact or Facilities Studies for these queued ahead projects, Duke will not know what upgrades will actually be needed for the later queued CPRE group projects. There are a number of factors that determine whether a project ultimately signs an Interconnection Agreement and is interconnected. One of the most important factors is what upgrade costs are assessed for the project. Very high upgrade costs frequently result in a project applicant choosing to abandon the project because it would be uneconomical. And thus, under Duke's proposal, projects and upgrades that may never come to fruition will be relied on as a "baseline" for the group study.

This will cause massive uncertainty for the group study. How can it rely on a baseline that is likely to be illusory, and still manage to accurately assess the CPRE projects' impacts and necessary upgrades? In North Carolina, Duke attempted to deal with this uncertainty by requiring non-refundable prepayment of network upgrade costs after the System Impact Study, instead of after the Interconnection Agreement is signed. While IREC believes this is a flawed approach that imposes unfair risks on queued ahead projects,<sup>23</sup> its use in North Carolina highlights the grave uncertainty that is risked by

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<sup>23</sup> A System Impact Study identifies only potential issues that need to be addressed. The evaluation of what upgrades are really needed and how much they will cost is determined

relying on unstudied, queued-ahead projects without Interconnection Agreements to establish the baseline for the CPRE group study in South Carolina. Since they have proposed no equivalent process in South Carolina to force queued-ahead projects to put down a deposit for their potential upgrades, it is unknown how many projects will ultimately proceed in the state.

And this concern is further highlighted by the fact that Duke intends to seek cost recovery for CPRE project network upgrades from the South Carolina ratepayers. In addition to the problems with this approach explained above, this risks saddling ratepayers with unexpected, inefficient upgrade costs. If—after the CPRE projects are selected based on the assumed baseline—queued-ahead projects drop out, then the cost of upgrades for the CPRE projects could change dramatically. It could even result in less-competitive projects being selected based on that faulty baseline. This is a massive risk to South Carolina ratepayers, and they should not have to shoulder the financial cost of this uncertainty.

IREC believes that the only way to mitigate this risk is for the Commission to require Duke to come up with a reasonable and fair process to complete studies for the existing queued-ahead projects prior to assessing the needed upgrades for the CPRE projects. This is not only the right way to ensure fair and non-discriminatory treatment of the many projects that have been waiting their turn in line, but it also necessary to ensure

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by the Facilities Study. It is not uncommon for a Facilities Study to identify costs that are substantially higher than the System Impact Study anticipated, and if such prepayments are required, the project would be forced to either pay much more than anticipated for network upgrades, or to forfeit what it has already paid. This could be discriminatory against non-CPRE projects, as the risk of financial loss could drive projects out of the queue, or prevent good projects from ever seeking to interconnect at all.

the costs of the CPRE projects are assessed accurately and do not ultimately shoulder South Carolina ratepayers with unnecessary costs.

#### **IV. Commission Jurisdiction and Resolution of Disputes**

Another key question that IREC would like the Commission to consider carefully here is how it will effectively retain its jurisdiction and authority over projects being built in South Carolina under Duke's proposal. Particularly in light of the fact that Duke suggests it would like to seek cost recovery from South Carolina ratepayers for this program (as discussed above), it is important to ensure that the South Carolina Commission has the authority to ensure both CPRE and non-CPRE projects built in South Carolina comply with state law, are treated fairly, and are in the best interests of South Carolina ratepayers. The CPRE program has been approved by the North Carolina Commission and that Commission ultimately has full authority over the approval of projects participating in the program. Duke is asking the Commission for a "limited waiver" of certain sections, but not all, of South Carolina's interconnection procedures for projects bidding into the CPRE program. Duke states that "these proposals will not affect the Commission's jurisdiction over Interconnection Requests, which will continue to apply to those Interconnection Requests that are processed through the CPRE Program. . . ."<sup>24</sup> It is not clear to IREC, however, how the Commission will effectively retain its jurisdiction if it is waiving applications of key portions of the procedures and if the details of how the CPRE projects will be studied and selected are governed by another state.

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<sup>24</sup> Pub. Serv. Comm. of S.C.; Dkt. 2018-202-E; Petition of Duke Energy Carolinas, LLC and Duke Energy Progress LLC for Approval of CPRE Queue Number Proposal, Limited Waiver of Generator Interconnection Procedures, and Request for Expedited Review, p. 2 (June 19, 2018).

Section 6.2.3 of the South Carolina interconnection procedures provides that if the parties to a dispute are unable to resolve their differences they may seek assistance from ORS to help facilitate resolution and/or may file a formal complaint with the Commission. In Duke's motion and comments it has not sought to waive application of the Dispute Resolution Process. However, in ORS's comments they indicate that it is their understanding that the dispute clause in Section 6.2 will not apply to customers bidding into the CPRE program, but that ORS will retain its ability to facilitate disputes regarding non-CPRE projects.<sup>25</sup> In other words, ORS is asking the Commission to waive an important portion of the dispute resolution procedures for CPRE projects. While IREC can fully appreciate why ORS would feel that they may not be able to adequately facilitate resolution of disputes regarding a program administered out of state, we believe that waiving this provision would be unwise. It is not clear whether the North Carolina Commission would want to or even be able to resolve an interconnection dispute for a project outside of its jurisdiction. This would leave an enormous regulatory gap and create potential for Duke to abuse its power when it comes to reviewing these projects.

Furthermore, if a CPRE project does have a dispute with Duke, one can envision a number of scenarios where it would be difficult for the South Carolina Commission to appropriately resolve any complaint that could be filed if it does not have authority over the study and cost allocation process for these projects. In addition, it is also entirely plausible that non-CPRE projects may end up having disputes with Duke regarding their treatment in the queue if they believe that CPRE projects are being treated favorably or are delaying the

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<sup>25</sup> Pub. Serv. Comm. of S.C., Dkt. 2018-202-E, Comments of Office of Regulatory Staff, p. 3 (Sept. 21, 2018).

ability of other projects to be interconnected. In order to resolve these disputes fairly, the Commission must have authority over all projects within its purview. Thus, the Commission should assert full authority over both the CPRE projects and non-CPRE projects to ensure that it has the ability to resolve disputes and ensure fair treatment of all projects in the state.

**V. The Commission Should Require Reporting That Will Reveal Any Impacts to the Queue from the CPRE Group Study Process.**

Finally, if the Commission approves Duke's requests, it should require reporting that will provide the Commission and stakeholders with sufficient information to determine the impacts of the program on all projects. Currently, Duke has committed to report (1) which projects are selected as bid winners, and (2) which applicable Tranche the bid is selected in.<sup>26</sup> IREC supports requiring this reporting, but we believe it is not sufficient to fully disclose the impacts the CPRE group study process may have.

IREC instead supports the reporting requested by Ecoplexus and SCSBA in their comments.<sup>27</sup> Specifically, IREC recommends that the Commission require, at a minimum, the following quarterly reporting from Duke, in addition to that requested by ORS and agreed to by Duke:

- Identification of projects that bid into the CPRE and were not selected.
- Identification of the intervals for every significant milestone for every queued-ahead non-CPRE project, including intervals for receipt of System Impact and

<sup>26</sup> Duke Reply Comments, p. 7.

<sup>27</sup> See Pub. Serv. Comm. of S.C.; Dkt. 2018-202-E; Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for Approval of CPRE Queue Number Proposal, Limited Waiver of Generator Interconnection Procedures, and Request for Expedited Review; Comments of Ecoplexus, Inc. and South Carolina Solar Business Alliance, p. 5 (Sept. 27, 2018).

Facilities Studies Agreements, for the System Impact and Facilities Studies to be completed, from when studies are completed and the Interconnection Agreement is received, and from when the Interconnection Request is received to execution of Interconnection Agreement.

## **VI. Conclusion**

In many ways, these comments are difficult ones for IREC to write. IREC supports efforts by states to develop innovative procurement programs and interconnection procedures that facilitate the efficient, fair, and competitive development of affordable renewable energy. The CPRE program is an example of a creative effort by a state to both ensure the procurement of lowest cost resources, while also helping to break down the intractable challenges associated with reviewing interconnection projects one-by-one. However, the principles that govern the fair treatment of projects in the interconnection queue are not only enshrined in law, they are important to maintaining a competitive marketplace and lowering risks of project development. If states adopt programs hastily, they increase the risks of project development which ultimately increases the costs of that development for the state's ratepayers. IREC would like North Carolina's CPRE program to be successful and would like South Carolina projects to have the opportunity to participate in this program, but the rushed nature of Duke's proposal makes it difficult to propose concrete solutions that would allow the program to go forward without impairing the rights of other projects.

Thus, IREC urges the South Carolina Commission to not respond hastily to Duke's request and instead take reasonable time to consider and create a program that allows both CPRE projects, and all other queued-ahead projects, to get their interconnection results in a timely and non-discriminatory manner.

In conclusion, IREC asks the Commission to take the following action in this matter:


- Allow only limited waiver of the interconnection procedures for CPRE group study projects, and retain full jurisdiction over the projects and any disputes arising associated with them.
- Require that Duke find a way to ensure that queued-ahead projects receive their study results ahead of or, at a minimum, truly concurrently with, the CPRE group projects.
- Reject the request to make a public interest finding and/or provide express authorization on whether Duke can see cost recovery for the CPRE program.
- Require reporting that is sufficiently detailed to allow the Commission to have the evidence it needs to determine with certainty that the CPRE projects are not being given any favorable treatment in terms of capacity guarantees, faster study timelines, or interconnection agreements.

IREC appreciates the Commission's consideration of these comments.

DATED: October 19, 2018

TERRENI LAW FIRM, L.L.C.

By:

  
 CHARLES L.A. TERRENI

DATED: October 19, 2018

SHUTE, MIHALY & WEINBERGER LLP

By:   
LAURA D. BEATON

Attorneys for INTERSTATE RENEWABLE  
ENERGY COUNCIL, INC.

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Duke Energy Progress, LLC for Approval of  
CPRE Queue Number Proposal, Limited Waiver  
of Generator Interconnection Procedures, and  
Request for Expedited Review

CERTIFICATE OF SERVICE

The undersigned, Carl E. Bell, Paralegal at Terreni Law, LLC, does hereby certify that the following persons have been served with one copy of the **COMMENTS OF THE INTERSTATE RENEWABLE ENERGY COUNCIL, INC.**, in the above captioned proceeding by electronic mail at the addresses set forth below:

**Andrew M. Bateman, Counsel**  
Officer of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201  
Email: [abateman@regstaff.sc.gov](mailto:abateman@regstaff.sc.gov)  
Phone: 803-737-8440  
Fax: 803-737-0895

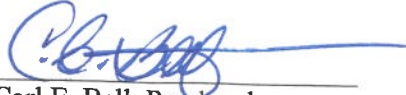
**Frank R. Ellerbe, III, Counsel**  
Sowell Gray Robinson Stepp Laffitte, LLC  
P.O. Box 11449  
Columbia, SC 29211  
Email: [fellerbe@robinsongray.com](mailto:fellerbe@robinsongray.com)  
Phone: 803-227-1112  
Fax: 803-744-1556

Rebecca J. Dunlin, Counsel  
Duke Energy Carolina, LLC  
Duke Energy Progress, LLC  
1201 Main Street, Suite 1180  
Email: [Rebecca.Dulin@duke-energy.com](mailto:Rebecca.Dulin@duke-energy.com)  
Phone 803-988-1730  
Fax: 803-988-7123

Richard L. Whitt, Counsel  
Austin & Rogers, P.A.  
508 Hampton Street, Suite 300  
Columbia, SC 29201  
Email: [rlwhitt@austinrogerspa.com](mailto:rlwhitt@austinrogerspa.com)  
Phone: 803-251-7442  
Fax: 803-252-3679

Timothy F. Rogers, Counsel  
Austin and Rogers, P.A.  
P.O. Box 11716  
Columbia, SC 29201  
Email: [tfrongers@austinrogerspa.com](mailto:tfrongers@austinrogerspa.com)  
Phone: 803-712-9900  
Fax: 803-712-9901

Executed in Columbia, South Carolina on October 19, 2018.

  
Carl E. Bell, Paralegal